

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JASMINE MILLER

633 W. Murphy
Lima, Ohio 45801

Plaintiff,

v.

**LIMA CONVALESCENT HOME
FOUNDATION INC. dba LIMA
CONVALESCENT HOME**
1650 Allentown Rd
Lima, Ohio 45801

Defendant.

* Case No.

* Judge

* **COMPLAINT; JURY DEMAND**
* **ENDORSED HEREON**

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JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1331, 1337, 1343, 2201 and 2202. This is an action for a violation of 42 U.S.C. 1981. This action, in part, is one for money damages, reinstatement, and liquidated damages resulting from an alleged unlawful termination of employment. Venue is proper in the Northern District of Ohio District Court, as the acts which gave rise to the causes of action complained of herein took rise in Allen County, Ohio. This court's supplemental jurisdiction is also invoked pursuant to 28 U.S.C. Section 1367 over claims of racial discrimination in violation of the law of the State of Ohio.

PARTIES

2. Plaintiff, Jasmine Miller, is a citizen of the United States and a resident of the City of Lima, State of Ohio, who has been employed with Defendant from 2011 until her termination on January 22, 2021. At all times material hereto, Plaintiff was an employee of an employer within the meaning of 42 USC 1981 and Chapter 4112 of the Ohio Revised Code in that it employed at all times material hereto more than four (4) employees.

3. Defendant ResCare Lima Convalescent Home Foundation Inc., dba Lima Convalescent Home is a corporation duly organized under Ohio law operating a convalescent home in the City of Lima, State of Ohio. Defendant at all times had more than four (4) employees is also an employer within the meaning of 42 USC 1981 and Ohio Revised Code Chapter 4112.

GENERAL ALLEGATIONS

4. Plaintiff was employed by Defendant from 2011 until her termination on January 22, 2021.

5. Plaintiff is an African American individual.

6. Plaintiff began her employment with Defendant as a State Tested Nursing Assistant (STNA). Plaintiff then became a Licensed Practical Nurse, and finally, a Registered Nurse.

7. Plaintiff was well qualified for her position as a Registered Nurse by virtue of her education and experience.

8. In early January of 2021, Plaintiff received a disciplinary write-up for allegedly yelling at the Director of nursing, who is Caucasian.

9. Plaintiff never screamed or yelled at the Director of Nursing ("DON"), and had a witness who would corroborate that Plaintiff did not scream at the DON.

10. At least three of Plaintiff's co-workers who are Caucasian have screamed at the DON, but have not been disciplined.

11. Plaintiff complained to the Executive Director, and explained that she thought the write-up was inappropriate because she did not scream at the DON.

12. The Executive Director, who is Caucasian, told Plaintiff she was intimidating and that she was fearful of Plaintiff.

13. No valid reason was given for the write-up issued to Plaintiff.

14. Thereafter, Plaintiff was terminated, allegedly because of the "working relationship" between Plaintiff, the DON, and Executive Director.

FIRST CLAIM FOR RELIEF
42 USC 1981, Racial Discrimination

15. Plaintiff incorporates each and every allegation contained in paragraphs one (1) through fourteen (14) of this Complaint, supra, by reference in its entirety as if fully restated herein.

16. Plaintiff is an African American individual and was employed by Defendant.

17. Plaintiff was well qualified for her position, and performed her job well.

18. Plaintiff was terminated, and was treated differently than Caucasian employees. Caucasian employees were not written up and then terminated for allegedly screaming at the DON.

19. Defendant's alleged reasoning for Plaintiff's termination was false and pretextual. Plaintiff was performing her job well, and did not scream at the DON.

20. In terminating Plaintiff, Defendant has intentionally discriminated against her on the basis of her race in violation of 42 U.S.C. Section 1981.

21. As a proximate result of the actions of Defendant as complained of herein, Plaintiff has suffered the loss of her job position, back wages, seniority, fringe benefits and pension benefits, diminished earning capacity and great mental and emotional stress, anxiety, humiliation and

embarrassment all to her damage. Plaintiff has also been forced to expend litigation expenses and attorney's fees.

SECOND CLAIM FOR RELIEF
Ohio Revised Code Section 4112.02, Racial Discrimination

22. Plaintiff incorporates each and every allegation contained in paragraphs one (1) through twenty-one (21) of this Complaint, supra, by reference in its entirety as if fully restated herein.

23. Plaintiff is an African American individual and was employed by Defendant.

24. Plaintiff was well qualified for her position, and performed her job well.

25. Plaintiff was terminated, and was treated differently than Caucasian employees. Caucasian employees were not written up and then terminated for allegedly screaming at the DON.

26. Defendant's alleged reasoning for Plaintiff's termination was false and pretextual. Plaintiff was performing her job well, and did not scream at the DON.

27. In terminating Plaintiff, Defendant has intentionally discriminated against her on the basis of her race in violation of Ohio Revised Code Section 4112.02(A) made actionable pursuant to Ohio Revised Code Section 4112.99 as amended.

28. As a proximate result of the actions of Defendant complained of herein, Plaintiff has suffered personal and financial damage, harassment, and great mental and emotional stress, anxiety, humiliation and embarrassment. Plaintiff has also been forced to expend court costs and attorney's fees.

WHEREFORE, Plaintiff demands judgment against Defendant for lost back and front wages, compensatory and punitive damages for emotional distress, anxiety, humiliation and embarrassment plus her costs, interest and reasonable attorney's fees. Plaintiff also seeks an amount of liquidated damages equal to her damages and her costs and attorney's fees all together

with prejudice and post judgment interest. Plaintiff further prays for whatever other legal or equitable relief she may appear to be entitled to.

Respectfully submitted,

WASSERMAN, BRYAN, LANDRY & HONOLD, LLP

s/Francis J. Landry

Francis J. Landry

Attorney for Plaintiff, Jasmine Miller

JURY DEMAND

Plaintiff demands a jury trial as to all issues to triable in the within cause.

s/Francis J. Landry

Francis J. Landry